

IN THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE

UNITED STATES OF AMERICA)	
)	
v)	Criminal No. 7:12 CR-32
)	
OSAMA MAHMUD MUSTAFA)	

**RESPONSE TO GOVERNMENT'S MOTION
TO SENTENCE DEFENDANT IN ABSENTIA**

NOW COMES Michelle C. F. Derrico, counsel for defendant, Osama Mahmud Mustafa, and files this Response to the Motion by the United States to Sentence defendant Mustafa *in absentia*, pursuant to the Order of the Court of May 21, 2014, as follows:

1. Counsel was appointed to represent Mr. Mustafa when he became disillusioned with his retained counsel following his jury trial in April, 2014.
2. On August 30, 2014, Mr. Mustafa failed to appear for a hearing in this case. He has continued to absent himself from the proceedings, and counsel has had no contact with her client since prior to that date.
3. Whether Mr. Mustafa would prefer to be sentenced in person or *in absentia* is not an issue on which counsel feels comfortable assuming a particular position on his behalf. For example, if Mr. Mustafa is seeking asylum in a foreign country, he may prefer to have his case finalized so that he may more readily allege unreasonable persecution in his home country. He could prefer to be absent out of concern the government would use his appearance to try to locate additional

assets for forfeiture. Of course, there are numerous reasons counsel would recommend Mr. Mustafa appear before the Court personally.

4. In the absence of the opportunity to consult with her client, discuss the potential ramifications for his actions, and make a recommendation, counsel can only rely upon her imagination to assume Mr. Mustafa would take a particular position regarding the government's motion.

WHEREFORE, counsel respectfully requests the Court accept this filing as her reply to the Motion of the United States to sentence Mr. Mustafa *in absentia*.

Respectfully submitted this 30th day of May, 2014.

OSAMA MAHMUD MUSTAFA

By: /s/ Michelle C. F. Derrico
Of Counsel

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CERTIFICATE OF SERVICE

I, Michelle C. F. Derrico, hereby certify that on this 30th day of May, 2014, I electronically filed the foregoing Response to Government's Motion to Sentence Defendant *in absentia* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- Joseph W. H. Mott
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- Jennifer Williams
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/s/ Michelle C. F. Derrico
Michelle C. F. Derrico